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1 Atorneys for Federal Defendants and  
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4  
5 **UNITED STATES DISTRICT COURT**  
6 **NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION**

7 CALIFORNIA COALITION FOR WOMEN  
8 PRISONERS; et al.,

9 Plaintiffs,

10 v.

11 UNITED STATES OF AMERICA; UNITED  
12 STATES OF AMERICA FEDERAL BUREAU OF  
13 PRISONS, et al.,

14 Defendants.

15 Case No. 4:23-cv-04155

16  
17 **JOINT NOTICE REGARDING**  
18 **PROPOSED INTERVENORS'**  
19 **MOTION TO UNSEAL COURT**  
20 **RECORDS AND PROTECT**  
21 **ACCESS TO COURT**  
22 **PROCEEDINGS (DKT. NO. 317)**

23 Judge: Yvonne Gonzalez Rogers

24 Date: July 30, 2024

25 Time: 2:00 p.m.

26 Courtroom: 1 (Fourth Floor)

1 Following a meet-and-confer between counsel for Federal Defendants and counsel for Proposed  
 2 Intervenors (together, “the Parties”), Federal Defendants have agreed that additional documents should be  
 3 unsealed. The Parties’ updated positions on individual sealing requests are included in Exhibit 1.

4 Broadly, Federal Defendants agree that all motions to seal and declarations in support of motions  
 5 to seal were improperly filed under seal and should be unsealed. Federal Defendants also agree that, to  
 6 the extent the Court unseals any of its Orders, documents responsive to sealed orders can be unsealed with  
 7 redaction of personal identifying information. Federal Defendants take no position on whether any Court  
 8 orders should be unsealed.

9 The sealing of the following documents remains in dispute for the reasons originally identified in  
 10 the Parties’ briefing: Dkt. Nos. 45-4, 45-5. As previously stated, Proposed Intervenors cannot assess  
 11 whether underlying documents should be unsealed without seeing the motion to seal (Dkt. No. 45).

12 Further, the sealing of the following documents remains in dispute because Federal Defendants  
 13 now assert that there are new compelling interests in sealing that outweigh the public’s right of access:  
 14 Dkt. Nos. 159-3, 172-2, 176-3, 176-4, 176-5, 184-3, 184-4, 184-5, 197-3, 197-6, and 206-3. As to these  
 15 documents, Proposed Intervenors take the position that Federal Defendants must file renewed  
 16 administrative motions to seal that “point to ‘compelling reasons’ supporting sealing, supported by  
 17 specific factual findings.” *Forbes Media LLC v. United States*, 61 F.4th 1072, 1081 (9th Cir. 2023) (citing  
 18 *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006)).

19 The Parties seek the Court’s guidance on how to proceed with refiling documents that no longer  
 20 require sealing. As an initial step, the Parties propose that the Court order the unsealing of documents  
 21 Federal Defendants agree no longer need to remain sealed. A proposed order outlining this approach is  
 22 attached.

23 With regard to oral argument scheduled for July 30, 2024, Federal Defendants note that they do  
 24 not oppose Proposed Intervenors’ motion to intervene, and believe it can be granted without argument.  
 25 However, Federal Defendants respectfully request additional time to prepare renewed administrative  
 26 motions to seal, and request that the Court postpone any hearing on Proposed Intervenors’ requests to  
 27 unseal for at least 21 days, or until the documents identified in Exhibit 1 have been unsealed, and all  
 28 renewed administrative motions to seal have been filed.

1 Proposed Intervenors reiterate their request that the Court consider and rule on their motions  
2 promptly to avoid irreparable harm, which includes ruling on Proposed Intervenors' Motion to Intervene,  
3 Dkt. No. 316, and requests to (1) unseal sealed court orders and trial transcripts; (2) issue orders  
4 articulating the legal and factual basis for sealing when the Court determines sealing is necessary and  
5 appropriate; (3) enter minute orders for all closed hearings held between April 15, 2024 and May 8, 2024;  
6 and (4) consistent with any unsealing of material previously requested sealed by Federal Defendants, order  
7 the related unsealing of any documents filed under seal by Plaintiffs. *See* Dkt. No. 317. As discussed in  
8 Proposed Intervenors' Motion to Unseal, "a necessary corollary of the right to access is a right to timely  
9 access." *Courthouse News Serv. v. Planet*, 947 F.3d 581, 594 (9th 2020). And where the right of access is  
10 grounded in the First Amendment, as it is here, "[e]ach passing day" without access to records "may  
11 constitute a separate and cognizable infringement of the First Amendment." *Lugosch v. Pyramid Co. of  
12 Onondaga*, 435 F.3d 110, 126 (2d Cir. 2006) (alteration in original) (holding that a court's delay in ruling  
13 on a motion to intervene and unseal records was "effectively a denial of any right to contemporaneous  
14 access" that infringed on First Amendment rights).

15 Dated: July 23, 2024

16 Respectfully submitted,

17 U.S. ATTORNEY'S OFFICE  
18 DISTRICT OF MONTANA

19 By: /s/ Madison L. Mattioli

20 Madison L. Mattioli, Assistant U.S. Attorney  
21 Attorneys for Federal Defendants

22 PUBLIC JUSTICE

23 By: /s/Jaqueline Aranda Osorno

24 Jaqueline Aranda Osorno  
25 Attorneys for Proposed Intervenors

## **SIGNATURE ATTESTATION**

Pursuant to Local Rule 5-4.3.4(a)(2)(i), the filer hereby attests that all signatories listed above, and on whose behalf this filing is submitted, concur in the filing's content, and have authorized the filing.

DATED: July 23, 2024

U.S. ATTORNEY'S OFFICE  
DISTRICT OF MONTANA

By: /s/ Madison L. Mattioli  
Madison L. Mattioli

## Attorneys for Federal Defendants

PUBLIC JUSTICE

By: /s/Jaqueline Aranda Osorno  
Jaqueline Aranda Osorno

## Attorneys for Proposed Intervenors